

No. 9/7/86-6Lab./10146.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the Management of M/s. Sooraj Steel Ltd., Industrial Area, Sonapat.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 127 of 1984

between

SHRI JANGA SINGH, APPLICANT AND THE MANAGEMENT OF M/s. SOORAJ STEEL LTD. INDUSTRIAL AREA, SONEPAT.

Shri R. S. Lakra, A.R. for the workman.

Shri D. C. Gandhi, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the applicant Shri Janga Singh and the management of M/s. Sooraj Steel Ltd., Industrial Area, Sonapat, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 27633—38, dated 1st August, 1984 :—

Whether the termination of services of Shri Janga Singh is justified and in order ?
If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent for the last 11 years and his job was mechanical in nature. He was drawing a sum of Rs. 900 as wages and that his service record was blemishless and that the respondent choose to terminate his services unlawfully with effect from 5th April, 1984 and that the order of termination is illegal and unlawful because the same was passed in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent, preliminary objection taken is that the petitioner is not a "workman" as defined in Section 2.S of the

Industrial Disputes Act, 1947 (hereinafter referred to as the Act) because he was working as a Mechanical Supervisor on a salary of Rs. 900 p.m. and so, the provisions of the Industrial Disputes Act, 1947 are not applicable in this case. On merits, it is denied that the petitioner was appointed in the respondent/company on 25th May, 1976 and that his work was supervisory in nature and there were many complaints against the petitioner and that the petitioner and one Shri Rajinder Singh were charge-sheeted on 5th April, 1984 on the charges of unruly behaviour in the respondent company and on their joint request, the dispute was referred for arbitration to one Puran Masih, Store Incharge and both the petitioner and Rajinder Singh agreed to abide by the verdict of the Arbitrator and that the petitioner and Rajinder Singh after having meeting with the Arbitrator agreed to quit the respondent concern after receiving their full and final accounts to avoid any disciplinary action. So, it is alleged that the petitioner left the respondent concern of his own.

4. On the pleadings of the parties, the following issue was laid down for decision by me on 14th December, 1984 :—

1. As per terms of reference.

5. Subsequently the following issue was laid down for decision by me on 16th October, 1985 :—

1. Whether the petitioner remained gainfully employed after his alleged termination.

6. Again on 16th June, 1986 the following additional issue was framed :—

"Whether the petitioner is not a workman as defined in section 2(s) of the Industrial Disputes Act, 1947" ?

7. In support of his claim, the petitioner himself appeared as WW-1 and examined Shri Mangal Singh his brother WW-2. The management examined Shri Puran Masih as MW-1, Shri Sat Narain as MW-2, Shri Rajinder Singh as MW-3, Shri Rajbir, Time Keeper as MW-4, Shri Jai Parkash Gupta as MW-5, Shri Puran Masih, as MW-6, who was re-called for further examination on the additional issue.

8. Authorised Representatives of the parties heard.

Additional issue number 1 framed on 16th June, 1986.

9. At the relevant time when services of the petitioner were terminated, he was working as Mechanical Supervisor. To prove its plea that the petitioner is not a workman as defined in section 2(s) of the Industrial Disputes Act, 1947, (hereinafter referred to as the Act), the management relied upon statement of Shri Puran Masih, MW-6, Shri Sat Narain MW-2. Shri Puran Masih stated that the petitioner was promoted as Production Supervisor in the year 1982,—vide letter Exhibit MX/1 and that he had power to grant leave, recommend payment of advances to the workmen, supervise their work, leave applications allegedly sanctioned by the petitioner are Exhibit MX/2 to Exhibit MX/19. In the salary register the petitioner has been designated as Mechanical Supervisor, photo copies of the same are Exhibit MX/21 to MX/24. Similarly Shri Sat Narain MW-2 stated that the petitioner was working as Production Supervisor in the year 1980 when he joined the respondent concern as a Charging Clerk and that he used to work under the supervision of the petitioner, who used to sanction his leave and that the petitioner was promoted as Mechanical Supervisor on 5th May, 1982.

10. The learned Authorised Representative of the respondent Shri Gandhi contended that since the petitioner was working as Mechanical Supervisor at the time he left his employment of his own, and he had powers to sanction leave and never handled any machinery of his own, he is not a "workman" as defined in section 2(s) of the said Act. The contention is baseless on the face of it. Even Shri Sat Narain MW-2 stated that a Foreman, who is senior in hierarchy to the petitioner used to remove defects from the machinery with his own hands. If a senior person can handle a machine with his own hands, it is difficult to believe that the petitioner never handled any machine as is sought to be made out on behalf of the respondent. The petitioner stated that he used to handle machines himself with his own hands and remove their defects. All the applications regarding leave placed on record have been simply forwarded by the petitioner to the management for sanction. Not a single application has been sanctioned by him. The law is settled that the Court will not go with the glorified application of an employee to hold that he is a workman and that the Court has to see the duties being actually assigned to him or being performed

by him. The petitioner had no initiative, he could not have taken any independent decision of his own. So, there is no question of the petitioner falling within the exception IV appended to section 2(s) of the said Act. So, the petitioner is a workman as defined in the said section. So, this issue goes against the respondent.

Issue No. 1 framed on 14th December, 1984.

11. The case of the respondent that the petitioner left his employment of his own is falsified from the statement of its own witnesses. The defence of the respondent was that the petitioner used to pick up quarrel with his co-workmen and in that behalf many workmen lodged complaints against the petitioner and that the petitioner had a quarrel with one Rajinder Singh, Foreman and that the two combatants agreed to the arbitration of Shri Puran Masih MW-1, who was Commercial Manager,—vide their letter Exhibit W-1 and further agreed to abide by the decision of the Arbitrator. On this fact he has been contradicted by MW-2 Shri Sat Narain also Supervisor in the respondent concern. He stated that Rajinder Singh did not agree to be paid off and that the management barred the entry of the petitioner and Rajinder Singh from the factory premises. Incidentally the said Rajinder Singh was also examined by the management as MW-3. He stated that the petitioner used to pick up quarrel with him too often and he lodged complaint to the management in that behalf and they appointed Puran Masih as a Arbitrator, who held the petitioner guilty but gave him a clean chit and so, the management refused access to the petitioner into the factory premises but he was taken on duty. MW-4 Rajbir is the Time Keeper of the respondent concern. He stated that the Arbitrator Puran Masih decided that both Rajinder Singh and the petitioner should be paid off and so, Rajinder Singh was paid off. His statement also runs counter to the statement of Rajinder Singh MW-3 and MW-2 Sat Narain. So, the story of the respondent that the petitioner of his own agreed to be paid off or left the employment is a concocted one and that this concoction is exposed from the statement of the witnesses examined by the management itself. Under these circumstances, there is no difficulty in holding that the respondent terminated the services of the petitioner without complying the provisions of section 25F and G of the said Act and that his termination was void *ab initio*, which cannot be sustained.

12. To prove this issue, the management examined MW-5 Shri Jai Parkash Gupta, who stated that the petitioner is engaged in the business of running a dairy and he had seen him carrying milk in the morning and that the petitioner also supplies milk to the people around the factory and is earning approximately a sum of Rs. 2-3 thousand p.m. The version of Shri Jai Parkash Gupta is sought to be buttressed from the statement of MW-6 Puran Masih, who stated that after leaving the employment of the respondent, the petitioner is engaged in running a dairy and that he saw the dairy about two years ago, where there were 15-16 milch cattle and that he had been meeting the petitioner too often but he was non-committal about the earnings being made by the petitioner. On the other hand, the petitioner examined his brother Mangal Singh WW-2, who stated that the petitioner is his brother, who is separate from him in mess and business and that the petitioner has no dairy at Sonapat and that Exhibit WW-2/1 is the licence for running the dairy in his name.

13. Even if, for the sake of arguments, it be agreed that the petitioner has been assisting his brother Mangal Singh in running his dairy business, it cannot be held that he had remained gainfully employed after his termination. An un-employed worker cannot be allowed to starve himself and his family to death and that he has got a right to engage himself in some odd duties to make out his existence and that such earning can be ignored by the Court as a solatium.

14. In the light of my fore going discussion, the claim of the petitioner succeed. On the question of back wages, he cannot fail, because he raised the demand notice within 10 days of his alleged termination. So, the petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

The 14th October, 1986.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Bahadurgarh.

Endorsement No. 127-84/1563, dated the 10th November, 1986.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Bahadurgarh.

No. 9/7/86-6Lab./10147.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the Management of (i) Transport Commissioner, Haryana, Chandigarh (ii) Haryana Roadways, Sirsa.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 80 of 1985

between

SHRI MAHABIR SINGH, WORKMAN AND THE MANAGEMENT OF (i) TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH.

(ii) HARYANA ROADWAYS, SIRSA.

Shri V. K. Bansal, A.R. for the workman.

Shri V. K. Kohli, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Mahabir Singh and the management of M/s. (i) Transport Commissioner, Haryana, Chandigarh, (ii) Haryana Roadways, Sirsa, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 22247—51, dated 23rd May, 1985:—

Whether the termination of services of Shri Mahabir Singh, Conductor No. 91 is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was appointed as a Conductor with the respondent/Roadways but the respondent choose to terminate his services,—vide order dated 15th December, 1981 and that the said order was passed against the principles of natural justice

without application of mind. It is further alleged that the alleged absence of the petitioner was not intentional but was under circumstances beyond his control. It is further alleged that in the other charge-sheet alleging mis-appropriation of Rs. 39 on 15th September, 1981, the petitioner was awarded punishment by the respondent, vide order dated 26th December, 1981. Under the said order, the respondent reduced the services of the petitioner to the time scale and his further appointment was treated as denovo appointment and so, it is alleged that in view of this order charge-sheet dated 8th July, 1980 stood exhausted. Inter alia, it is alleged that the petitioner was not given an opportunity to defend himself during the domestic enquiry proceedings, which were conducted in gross violation of principles of natural justice. So, he has prayed for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, preliminary objection taken is that the petitioner could agitate the matter before the State Transport Commissioner, Haryana, Chandigarh, which he has not done and as such, the present reference is not maintainable. On merits, the respondent has asserted the validity and legality of the order of termination. It is alleged that the petitioner remained absent from his duties from 21st June, 1980 without prior intimation or sanction of leave and that into these allegations a probe was held, in which, he was found guilty and so, the order of termination was passed.

4. On the pleadings of the parties, the following issues were settled for decision by me on 10th October, 1985 :—

1. Whether a valid and proper domestic enquiry was held by the respondent?

OPR.

2. Whether the reference is bad in law?

OPR.

3. As per terms of reference.

5. The management examined MW-1 Shri Ram Singh, Assistant, Haryana Roadways Sirsa, Mohinder Singh Inspector MW-2, MW-3 Shri C. K. Uppal, Chief Inspector, MW-4 Shri N. S. Phougar, Traffic Manager. The petitioner appeared as his own witness as WW-1 and further examined WW-2 Shri Shyam Wadhwa, Clerk, Haryana Roadways, Sirsa.

6. The learned Authorised Representative of the parties heard.

ISSUE NO. 1

7. To prove the validity of the domestic enquiry, the respondent examined MW-1 Shri Ram Singh Assistant, who stated that absence report Exhibit M-1 was made by him against the petitioner and that Exhibit M-2 is the telegram issued to the petitioner to resume his duties. Exhibit M-3 is the copy of the charge-sheet but no reply was filed by the petitioner and that the enquiry was held by the Traffic Manager, whose findings are Exhibit M-5. MW-2 is Shri Mohinder Singh, Inspector, who stated that on 21st June, 1980 he was working under the supervision of Shri Uppal and that he used to submit reports to Shri Uppal, report Exhibit M-1 is signed by him. MW-3 is Shri C. K. Uppal, who stated that on 21st June, 1980 he was posted as Duty Inspector, Haryana Roadways Sirsa and Shri Mohinder Singh MW-2 was working under him, who on the said date made a report to him regarding absence of the petitioner from duty. His report is Exhibit M-1 and that the Enquiry Officer recorded his statement. The petitioner when he appeared as WW-1, stated that there was a case against him regarding absence of his duties and that he absented from his duties because of illness of his mother, for which, he sent an application for leave. Nothing was argued on behalf of the respondent regarding the validity of the enquiry report or the procedure followed by the Enquiry Officer in conducting the same. So, no fault can be found with the validity of the enquiry report in this case and as such this issue is answered in favour of the management.

ISSUE NO. 2

8. Not pressed on behalf of the respondent, so, the same is answered against it.

ISSUE NO. 3

9. On this issue, the learned Authorised Representatives of the parties addressed arguments in extenso, but at the very outset it was contended on behalf of the respondent that since the petitioner had only put in less than one month of service after his earlier appointment had been terminated on 26th November, 1981, it cannot be argued on behalf of the petitioner that the subsequent order of termination/dismissal

dated 15th December, 1981 falls within the ambit of terms "retrenchment" as defined in section 2(oo) of the Industrial Disputes Act, 1947, because the petitioner has not put in 240 days of actual work with the respondent during the last 12 calendar months prior to the date of termination. The learned Authorised Representative of the respondent seems to be in complete confusion in raising this contention. By earlier order dated 26th November, 1981, copy of which, is Exhibit W-1, a penalty of withdrawal of time scale was inflicted upon the petitioner. There was no termination of his service, rather he was ordered to be reinstated. So, it cannot be held that services of the petitioner were terminated on 26th November, 1981.

10. As regards the subsequent enquiry and report on the basis of which, order of termination dated 15th December, 1981 was passed, learned Authorised Representative of the petitioner was justified in contending that regarding this allegation the competent authority has passed order dated 22nd July, 1981, whereby the petitioner was censured and his absence from duty from 21st June, 1980 to 18th August, 1980 was ordered to be treated as leave without pay. Regarding these very charges, a subsequent domestic enquiry was ordered to be held resulting in the impugned order of dismissal dated 15th December, 1981. The learned Law Officer of the respondent could not advance any tenuous explanation as to why the competent authority choose to censure the conduct of the petitioner,—vide its earlier order dated 28th July, 1981 and subsequently choose to hold an enquiry into the same allegations. On behalf of the respondent 1985 Lab. I.C. 1114 Abdul Khaliq V/s. Heavy Engineering Corporation Limited and others was cited. This authority has not got the remotest bearing upon the facts of the present case, so, I need not discuss or distinguish the same. So, the order of termination passed against the petitioner was patently illegal and unlawful and as such, the same is set aside.

11. There is no explanation on behalf of the petitioner for delay in raising the demand notice. Order of termination is dated 15th December, 1981 and the demand notice received alongwith the order of reference is dated 7th September, 1984. Though, this Court has not viewed with disfavour delay for less than three years in raising the dispute but in the present case, there is no explanation on behalf of the petitioner as

to why he could not raise the demand notice earlier. So, he cannot be awarded full back wages for this period. The petitioner is ordered to be reinstated, but he shall be entitled to 50 per cent wages from 15th December, 1981 to 7th September, 1984 and full back wages thereafter till the date of reinstatement. He shall also be given benefit of continuity of previous service. Though, no plea was taken by the respondent that the petitioner remained gainfully employed after his termination but a question was put to the petitioner in cross examination, who admitted that he remained employed as a Peon in the Excise Department from September 1982 to November, 1983. But it is not on record as to what were his wages in the said Department. The law is settled that an un-employed employee cannot be allowed to starve him to death and the earnings made by him after termination/dismissal can be allowed to him as solatium. The reference is answered accordingly.

The 23rd October, 1986.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sirsa.

Endorsement No. 80-85/1564, dated the 10th November, 1986.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sirsa.

No. 9/7/86-6Lab./10148.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Mahesh Wood Products (P) Ltd., Bahalgarh.
BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 146 of 83.

between

SHRI SURESH KUMAR, WORKMAN AND THE
MANAGEMENT OF M/S MAHESH WOOD
PRODUCTS (P) LTD., BAHALGARH.

Shri S. N. Solanki, A.R., for the workman.
Shri S. Kaushal, A.R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Suresh Kumar and the management of M/s Mahesh Wood Products (P) Ltd., Bahalgarh, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. ID/48652—57, dated 16th September, 1983:—

Whether the termination of service of Shri Suresh Kumar was justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was working as a Labour with the respondent since 1st May, 1978, on monthly wages of Rs. 344 and that the management choose to terminate his services on 8th November, 1982 without assigning any reason. He was not served any charge-sheet nor any enquiry was held and as such, he has alleged his termination to be unlawful and illegal.

3. In the reply filed by the respondent, employment of the petitioner is admitted, but it is alleged that services of the applicant were retrenched, for which, notice was given to him and he was paid all his dues on 8th November, 1982 itself and as such, there was no question of holding an enquiry. It is denied that workers junior to the petitioner are still in service and so, it is alleged that retrenchment was perfectly legal and in order.

4. On the pleadings of the parties, the following issues were settled for decision by me on 10th October, 1984:—

1. As per terms of reference.

5. The petitioner appeared as his own witness as WW-1. The respondent examined its Manager, Shri Sanjeev Soni as MW-1.

6. The learned Authorised Representatives of the parties heard.

7. Certain facts are undisputed. The case of the petitioner is that his services were terminated on 8th November, 1982 whereas the management has alleged that he was retrenched

from employment on the said date. Now, the question would be as to whether retrenchment of the petitioner as alleged is legal and justified. It was alleged on behalf of the respondent that retrenchment notice was given to the petitioner but no such notice has been placed on record, though the respondent has placed on record vouchers Ex. M-2 to M-9 evidencing payment of all dues to the petitioner. Section 25F of the Industrial Disputes Act, 1947, enjoins upon the management to give reasons for retrenchment. No such reason has been alleged or proved. On behalf of the respondent Shri Kaushal learned Authorised Representative of the respondent contended that from the seniority list Ex. M-1 placed on record, it is apparent that the petitioner was junior most employee to be retrenched. Be that it may be so, since no reasons for retrenchment have been given the retrenchment cannot be said to be legal and lawful and so, the petitioner is ordered to be reinstated with continuity of service and full back wages. However, the management shall be entitled to set off the amount paid to the petitioner as retrenchment compensation. The reference is answered and returned accordingly with no order as to cost.

Dated 30th October, 1986.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.
Camp Court, Sonapat.

Endorsement No. 146-83/1565, dated 10th November, 1986.

Forwarded (four copies) to the Secretary, to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.
Camp Court, Sonapat.

No. 9/7/86-6Lab./10149.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of Sub

Divisional Officer, P.W.D., Public Health, W.B.C.
Sub Division Sirsa.

BEFORE SHRI B. P. JINDAL, PRESIDING
OFFICER, LABOUR COURT, ROHTAK

Reference No. 151 of 84

between

SHRI RAMDEEN, WORKMAN AND THE
MANAGEMENT OF M/S SUB DIVISIONAL
OFFICER, P.W.D., PUBLIC HEALTH, W.B.C.
SUB DIVISION, SIRSA.

Shri H. S. Smaug, A.R., for the workman.

Shri Satish Bhatia, SDO., for the respondent.

AWARD

1. In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ram Deen and the management of Sub Divisional Officer, P.W.D. Public Health, W.B.C. Sub Division Sirsa, to this Court, for adjudication,—vide Haryana Gazette Notification No. 32694—98, dated 30th August, 1984:—

Whether the termination of services of Shri Ram Deen is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Chowkidar in P.W.D. (Public Health) Sub Division Sirsa and has put in 2½ years service when on 25th May, 1983, the respondent choose to terminate his services illegally and that notice dated 11th May, 1983 was never received by him and that Sub-Divisional Engineer wanted him to do drudgery at his house, which he refused, which irked the management and as such, the impugned order of termination was passed. *Inter alia*, it is alleged that employees junior to the petitioner have been retained in employment.

3. In the reply filed by the respondent, it is alleged that the petitioner was appointed as Mali-cum-Chowkidar on 10th December, 1981 on purely temporary basis as a work-charged employee but was found absent from his duties at Water Works village Rasaliakhara without any prior intimation as per report of Shri K. K. Rana, Junior Engineer dated 2nd May, 1983, who was Incharge of the works and so, the petitioner was served with a notice of ten days to resume his duties, which he never did. Other allegations of mala fide have been controverted.

4. On the pleadings of the parties, the following issue was settled for decision by me on 9th April, 1985:—

1. As per terms of reference.

5. In support of his claim, the petitioner appeared as WW-1 and the management Shri Satish Kumar Bhatia, SDO as MW-1.

6. The learned Authorised Representatives of the parties heard.

7. Appointment of the petitioner as Mali-cum-Chowkidar and his termination on 25th May, 1983 is not denied by the respondent. The case of the respondent is that the petitioner was found absent from his duties by Shri K. K. Rana, Junior Engineer, whom made a report in that behalf on 2nd May, 1983 and as such, ten days notice was served upon the petitioner, copy of which is Ex. W-1, requiring the petitioner to resume his duties within ten days. If the petitioner was wilfully absent from his duties, an enquiry could be held to enable the petitioner to detail the circumstances, under which he choose to remain absent from his duties without leave, but no such procedure was adopted. The petitioner has put in 240 days of actual work with the respondent within the last 12 calendar months, on the date, order of termination was passed. It was mandatory on the part of the respondent to have paid the petitioner retrenchment compensation as envisaged under section 25F of the Industrial Disputes Act, 1947, No one month's prior notice or wages in lieu there of were paid to the petitioner. So much so, no suggestion was put to the petitioner when he appeared in the Court as WW-1 that the remained absent from his duties wilfully. Under these circumstances, order of termination was illegal and unlawful and as such, the same is set aside. Since the demand notice was raised by the petitioner within eight months of his termination, he cannot be denied the benefits of back wages. So, the petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

Dated 20th October, 1986.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 151-84/1566, dated 10th November, 1986.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.